

MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING &
ALLIED DUTIES)

NOTIFICATION

New Delhi, the 29th March, 2004

Initiation
(Mid-term Review)

Subject: Initiation of Mid-term Review of anti-dumping duty imposed on imports of (Acrylonitrile Butadiene Rubber) NBR originating in or exported from Germany and Korea RP.

No. 15/5/2004-DGAD - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995, vide Notification Number 50/1/2001-DGAD dated 1st October 2001, the Designated Authority (herein after referred to as Authority) initiated a sunset review in the matter of continued imposition of the definitive antidumping duty in force on the import of NBR (hereinafter referred to as subject goods) originating in or exported from Germany and Korea RP (hereinafter referred to as subject countries).

AND WHEREAS vide Notification No. 50/1/2001 dated 21st September 2002 the Authority, concluded that the cessation of antidumping duty on NBR from Korea RP and Germany will lead to continuation or recurrence of dumping and injury and recommended continued imposition of definitive antidumping duty on imports of the subject goods.

Accordingly, definitive antidumping duty was imposed on the subject goods vide Customs Notification No. 111/2002-Customs dated 10th October 2002.

2. Request for Review

WHEREAS the Rules supra require the Authority to review from time to time, the need for continued imposition of Anti Dumping Duty and if it is satisfied, on the basis of positive information received by it that there is no justification for continued imposition of such duty, the authority may recommend to the central government for its withdrawal. Notwithstanding the above provision the authority is required to

review, on the basis of positive information submitted by any interested party substantiating the need for a review, provided that a reasonable period of time has elapsed since the imposition of the definitive antidumping duty, whether continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both.

In terms of the above provision M/s Rishiroop Polymer Pvt. Ltd., Mumbai have filed a request for a mid-term review of the antidumping duty in force, on behalf of one of the exporters from Korea RP i.e., M/s Korea Kumho Petrochemicals Co. Ltd and on their own behalf.

3. Grounds for Review

The applicant claims that market condition have changed substantially requiring a review of the antidumping measures. The import prices have gone up substantially and the condition of the domestic industry has also improved. The applicant further claims that there is a significant reduction in the customs duty on the NBR from the earlier review and the present time i.e. from 38.5% to 20%. Therefore, the antidumping duty now collected on reference price basis as a difference between the reference price and the landed value far exceeds the actual dumping margin determined in the sunset review investigation, in violation of Section 9A (1) of the Customs Tariff Act.

4. Initiation

Having satisfied itself that the applicant has produced sufficient positive information substantiating the need for a review, the Designated Authority now considers that a mid-term review of the Anti Dumping Duty is appropriate in view of the changed circumstances, in terms of the provision of Section 9A (5) of Customs Tariff (Amendment) Act 1995 read with Rule 23 supra.

Having decided to review the final findings notified vide Notification No.50/1/2001-DGAD dated 21st September 2002 and continuation of definitive duty notified vide Notification No. 111/2002-Cus. dated 10th October 2002, the Authority hereby initiates the investigations in terms of the Rules supra, to review whether continued imposition of the duty on imports of NBR originating in or exported from Korea RP and Germany, is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both.

5. Product under Consideration

The product involved in the said investigation was Acrylonitrile Butadiene Rubber (NBR) falling under heading No. 40025900 in Chapter 40 of the First Schedule to the said Customs Tariff Act and ITC HS Classification. This classification however, is indicative only and in no way binding on the scope of the present investigation.

6. Procedure

The investigation will determine whether or there is dumping and injury and if there is a need for the continuation, removal or amendment of the existing measure.

- i. (i) The review will cover all aspects of Notification No. 111/2002-Cus. dated 10th October 2002
- ii. (ii) The period of investigation for the purpose of this review will be 1st January 2003 to 31st December 2003.
- iii. (iii) The countries involved in this investigation are Germany and Korea RP
- iv. (iv) The provisions of Rules 6,7,8,9,10,11,16,17,18,19 and 20 of the Rule supra shall be mutatis mutandis applicable in this review.

6.1 Submission of Information:

The exporters in subject countries, their governments through their embassies in India, the importers and users in India known to be concerned and the domestic industry are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the:

The Designated Authority

Directorate General of Anti-Dumping and Allied Duties
Ministry of Commerce and Industry
Department of Commerce
Udyog Bhavan
New Delhi-110011.
Fax: 91-11-23014418

Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out below.

6.2 Time Limit

Any information relating to the present review and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 Days) from the date of publication of this review notification. If no information is received within the prescribed time limit or the information received is

incomplete, the Designated Authority may record its findings on the basis of the facts available on record in accordance with the Rules supra.

6.3 Inspection of Public File:

In terms of Rules 6(7), any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

Abhijit Sengupta
Designated Authority